

IN THE DISTRICT COURT OF MCKINLEY COUNTY

STATE OF NEW MEXICO

SANTA FE PACIFIC RAILROAD COMPANY,
a corporation,

Plaintiff,

v.

No. 8287

DUANE BERRYHILL and NELDA BERRYHILL,
his wife, et al.,

Defendants.

FINDINGS, JUDGMENT AND DECREE

This cause coming on to be heard upon the complaint of Santa Fe Pacific Railroad Company, a corporation, and the answer of defendants Duane Berryhill and Nelda Berryhill, his wife, Volten S. Tietjen and Theressa Tietjen, his wife, Adrian Berryhill, also known as Wallace Adrian Berryhill, and Gladdus Tietjen Berryhill, his wife, Jeff Tietjen, also known as Thomas Jefferson Tietjen, and Edna Tietjen, his wife, Josephine Maude Elkins, an individual, and Josephine Maude Elkins as guardian of the estates of Jack Lee Elkins, Keith Lowell Elkins, Lynn Embert Elkins, David Phil Elkins and Frederick Vernon Elkins, and the stipulation and agreement of the parties dated April 4, 1952, filed herein, providing among other things for the compromise of this suit, and the court having heard the arguments of counsel and being fully advised in the premises, does hereby find:

(1) That it has jurisdiction of the parties and of the subject matter hereof;

(2) That plaintiff is the sole owner of all minerals whatsoever, including all oil, gas, coal, uranium-bearing ores and all other ores, already found or which may hereafter be found upon or under the lands described in the complaint, whether or not said minerals are presently regarded in the locality or generally as minerals having commercial value;

(3) That plaintiff has the right to prospect for, mine and remove any and all of said minerals, and to use any method or methods of mining, including shaft mining, strip mining, open pit mining, drilling, or any other or different process of extraction deemed by it to be efficient and economical, regardless of the fact that the method of mining used may cause damage to or destroy portions of the surface of said lands;

(4) That in the case of uranium-bearing ores plaintiff has the right to use the surface of said lands for all the purposes specified in said mineral reservation and particularly for the operation of strip or open pit mines and for the construction or improvement of such roads as may be necessary or convenient for the mining and removal of uranium-bearing ores, without payment of the amounts specified in said mineral reservation or any payments other than those provided for in Paragraph 7 of the aforesaid stipulation and agreement.

(5) That defendants, and each of them, have asserted claims to said minerals adverse to plaintiff, but none of said defendants has any right, title or interest in and to said minerals.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED,

that plaintiff is the sole owner of all minerals whatsoever, including all oil, gas, coal, uranium-bearing ores and all other ores, already found or which may hereafter be found upon or under the following described lands, whether or not said minerals are presently regarded in the locality or generally as minerals having commercial value:

Sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35, Township 13 North, Range 10 West, New Mexico Meridian, containing approximately 11,532 acres, in McKinley County, New Mexico;

Lots 3 and 4 and the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 3, Section 5, all that part of Section 7 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company, Section 9, SW $\frac{1}{4}$ of Section 13, Section 15, all that part of Section 17 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company, all that part of Section 21 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company, Section 22, Section 23, SE $\frac{1}{4}$ and W $\frac{1}{4}$ of Section 24, Section 25, Section 26, all that part of Section 27 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company, all that part of the E $\frac{1}{4}$ of Section 34 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company, and Section 35, in Township 13 North, Range 11 West, New Mexico Meridian, and all that part of Section 35 lying north and east of the right of way of The Atchison, Topeka and Santa Fe Railway Company in Township 14 North, Range 13 West, New Mexico Meridian, containing in the aggregate approximately 8,110 acres, in McKinley County, New Mexico; and

Sections 13, 15 and 23 in Township 11 North, Range 10 West, New Mexico Meridian, containing in the aggregate 1,920 acres, in Valencia County, New Mexico;

that plaintiff has the right to prospect for, mine and remove any and all of said minerals, and to use any method or methods of mining, including shaft mining, strip mining, open pit mining, drilling, or any other or different process of extraction deemed by it to be

efficient and economical, regardless of the fact that the method of mining used may cause damage to or destroy portions of the surface of said lands; and that in the case of uranium-bearing ores plaintiff has the right to use the surface of said lands for all the purposes specified in said mineral reservation and particularly for the operation of strip or open pit mines and for the construction or improvement of such roads as may be necessary or convenient for the mining and removal of uranium-bearing ores, without payment of the amounts provided for in said mineral reservation or any payments other than those specified in Paragraph 7 of the aforesaid stipulation and agreement.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that said defendants, and each of them, have no right, title or interest in and to said minerals, and that said defendants, and each of them, be and they are hereby barred and forever estopped from having or claiming any lien upon or any right, title or interest in and to said minerals adverse to plaintiff Santa Fe Pacific Railroad Company, and that plaintiff's title thereto be forever quieted and set at rest.

DONE AND ENTERED this _____ day of _____,
1952.

Judge